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REGISTER OF ACTIONS

CASE No. D-117-CV-2022-00070

Leon Van Winkle v. Marathon Petroleum Corporation, et. al.

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 Case Type: **Tort**
 Date Filed: **03/04/2022**
 Location:
 Judicial Officer: **Biedscheid, Bryan**

PARTY INFORMATION

| | | Attorneys |
|-----------|---|---|
| Defendant | Marathon Petroleum Company LP | |
| Defendant | Marathon Petroleum Corporation | |
| Defendant | Marathon Petroleum Logistics Services LLC | |
| Plaintiff | Van Winkle, Leon | Meghan Lashay Mitchell <i>Retained</i> 806-831-8432(W) |

EVENTS & ORDERS OF THE COURT

OTHER EVENTS AND HEARINGS

| | | |
|------------|---|---|
| 03/04/2022 | <u>OPN: COMPLAINT</u> | <i>Original Complaint for Personal Injuries</i> |
| 03/08/2022 | <u>JURY DEMAND 12 PERSON</u> | <i>Jury Demand</i> |
| 03/08/2022 | <u>Summons</u> | |
| | Marathon Petroleum Corporation | Unserved |
| | Marathon Petroleum Logistics Services LLC | Unserved |
| | Marathon Petroleum Company LP | Unserved |
| 03/16/2022 | <u>AFFIDAVIT</u> | <i>Affidavit of Service</i> |
| 03/16/2022 | <u>AFFIDAVIT</u> | <i>Affidavit of Service</i> |
| 03/16/2022 | <u>AFFIDAVIT</u> | <i>Affidavit of Service</i> |

FINANCIAL INFORMATION

| | | | |
|------------|-------------------------------------|------------------------|-------------|
| | Plaintiff Van Winkle, Leon | | |
| | Total Financial Assessment | | 432.00 |
| | Total Payments and Credits | | 432.00 |
| | Balance Due as of 04/06/2022 | | 0.00 |
| 03/07/2022 | Transaction Assessment | | 132.00 |
| 03/07/2022 | File & Serve Payment | Receipt # TAMD-2022-83 | (132.00) |
| 03/10/2022 | Transaction Assessment | | 300.00 |
| 03/10/2022 | File & Serve Payment | Receipt # TAMD-2022-95 | (300.00) |

EXHIBIT A

FILED 1st JUDICIAL DISTRICT COURT

Rio Arriba County

3/4/2022 12:36 PM

KATHLEEN VIGIL CLERK OF THE COURT

Liliana M Villalobos

**STATE OF NEW MEXICO
COUNTY OF RIO ARRIBA
FIRST JUDICIAL DISTRICT COURT**

LEON VAN WINKLE,

Plaintiff,

vs.

NoD-117-CV-2022-00070

Case assigned to Biedscheid, Bryan

**MARATHON PETROLEUM CORPORATION;
MARATHON PETROLEUM LOGISTICS
SERVICES LLC; MARATHON PETROLEUM
COMPANY LP,**

Defendant.

ORIGINAL COMPLAINT FOR PERSONAL INJURIES

COMES NOW Plaintiff Leon Van Winkle, by and through his counsel of record, Faddoul, Cluff, Hardy & Conaway, P.C. (Meghan Mitchell), and for his causes of action herein against Defendant, states as follows:

I. PARTIES, JURISDICTION, AND VENUE

1. Plaintiff is a resident of Apache County, Arizona.
2. Upon information and belief, at all times material hereto, Defendant Marathon Petroleum Corporation (hereinafter “Marathon Petroleum”) is a foreign profit corporation admitted to do business within the state of New Mexico and with a principal place of business in New Mexico at 206 S Coronado Ave, Espanola, NM 87532. It may be served through its registered agent, CT Corporation System, 206 S Coronado Ave, Espanola, NM 87532.
3. Upon information and belief, and at all times material hereto, Defendant Marathon Petroleum Logistics Services LLC (hereinafter “Marathon Petroleum”) is a foreign profit corporation admitted to do business in the State of New Mexico. It may be served through its registered agent, CT Corporation System, 206 S Coronado Ave, Espanola, NM 87532.

4. Upon information and belief, and at all times material hereto, Defendant Marathon Petroleum Company LP (hereinafter "Marathon Petroleum") is a foreign profit corporation admitted to do business in the state of New Mexico. It may be served through its registered agent, CT Corporation System, 206 S Coronado Ave, Espanola, NM 87532.
5. The amount in controversy is in excess of the minimum jurisdictional limits of this Court.
6. Venue is proper in Rio Arriba County, New Mexico, pursuant to NMSA 1978 § 38-3-1, because it is the county of Defendants' designated statutory agent.

II. GENERAL BACKGROUND

7. The allegations of the preceding and succeeding paragraphs are incorporated herein by this reference.
8. Plaintiff's claims arise from two incidents involving chemical exposures at Defendants' oil refinery located in Gallup, New Mexico.
9. On or about May 8, 2019, Plaintiff was working at the refinery for his employer at the time, Western States Energy Contractors.
10. As Plaintiff and other crew members were walking by a hydrofluoric acid tank, a cloud emitted from the tank, exposing Plaintiff and his crew to the vapors.
11. Upon information and belief, a Marathon Petroleum employee pushed a valve causing the hydrofluoric acid to be released.
12. Plaintiff immediately felt pins and needles to his face and burning in his lungs.
13. On or about May 31, 2019, Plaintiff was exposed to potassium hydroxide while working at Defendants' oil refinery.
14. Plaintiff and other Western States Energy Contractors crew members were working near a potassium hydroxide tower when dust started to leak from the tower.
15. Plaintiff's face began to burn.

16. Upon information and belief, Marathon Petroleum was aware that Western States was working near the towers.
17. Nonetheless, Marathon Petroleum changed out potassium hydroxide media in the nearby tower, causing potassium hydroxide dust to escape.
18. As a result of these incidents, Plaintiff sustained injuries and other damages.

III. CLAIMS AGAINST THE MARATHON PETROLEUM DEFENDANTS

19. The allegations of the preceding and succeeding paragraphs are incorporated herein by this reference.

Respondeat Superior

20. Defendant Marathon Petroleum is vicariously liable for the damages proximately caused to Plaintiff by virtue of the negligent conduct of its employees. At the time of the incident made the basis of this suit, Defendant Marathon Petroleum had employees who were acting within the course and scope of their employment with Defendant Marathon Petroleum and were negligent. The negligence of these employees was a proximate cause of Plaintiff's injuries and damages. Therefore, Defendant Marathon Petroleum is vicariously liable to Plaintiff for the negligent acts and/or omissions of their employees on the basis of *respondeat superior*.

Negligence

21. At all times relevant to these causes of action, Defendant Marathon Petroleum owed a duty to act as a reasonable and prudent company would have acted under the same or similar circumstances. Defendant Marathon Petroleum owned and operated the oil refinery and was therefore responsible for the activities at the site in question on or about the time of the injury made the basis of this suit. This responsibility included the duty of Marathon Petroleum to exercise ordinary care, caution, and diligence in the operation, maintenance, management, and oversight of operations at the work site and to keep the site in a reasonably safe condition for

Plaintiff and other similarly situated persons under the same or similar circumstances as those present at the time of this incident. Marathon Petroleum breached these duties and was negligent. Marathon Petroleum's negligence includes, but is not limited to, the following:

- a. In failing to keep the work site safe;
- b.. In failing to warn others of the dangerous conditions of the work site;
- c. In negligently hiring, supervising, or retaining personnel;
- d. In failing to adequately train or instruct its employees;
- e. In instructing, authorizing, or ratifying work performed in an unsafe manner; and
- f. In creating and/or failing to eliminate the dangerous conditions of the work site.

Punitive Damages

22. Defendant Marathon Petroleum's acts and/or omissions described herein were willful, malicious, reckless, and/or wanton as those terms are defined by New Mexico law justifying an award of punitive damages.
23. At all times relevant to these causes of action, Defendant Marathon Petroleum's employees, managers, and/or agents who committed the acts or omissions were acting within the scope of their employment with Defendant Marathon Petroleum and had sufficient discretionary and/or policy-making authority to speak and/or act for them, with regard to the conduct at issue, independent of higher authority. Alternatively, Defendant Marathon Petroleum authorized, participated in, and/or ratified the conduct of their employees giving rise to punitive damages.
24. A corporation may be held liable for punitive damages for the misconduct of its employees, managers, and/or agents. The actions of Defendant Marathon Petroleum's employees, managers, and/or agents, viewed in the aggregate, determined that Defendant Marathon Petroleum had the requisite culpable mental state because of the cumulative conduct of its employees, managers,

and/or agents. The totality of circumstances indicates Defendant Marathon Petroleum's wanton and/or reckless disregard for the safety and/or property of other persons.

25. Defendant Marathon Petroleum's owners, employees, managers, and/or agents, actual or apparent, engaged in in a pattern and practice of malicious, willful, reckless, and/or wanton conduct, which cumulatively demonstrated punitive-damages-invoking conduct on the part of Defendant Marathon Petroleum.
26. Alternatively, Defendant Marathon Petroleum has ratified such malicious, willful, reckless, and/or wanton conduct to justify the imposition of punitive damages.

IV. DAMAGES

27. The allegations of the preceding and succeeding paragraphs are incorporated herein by this reference.
28. Plaintiff sustained serious and permanent bodily injuries from which he continues to suffer.
29. As a result of the incident in question, Plaintiff has incurred, and will continue to incur, reasonable expenses for medical care, treatment, and services in the past, present, and future.
30. As a result of the incident in question, Plaintiff sustained physical pain and suffering, which will continue into the future, and he has been precluded from his normal activities as an individual and has suffered loss of enjoyment of life.
31. As a result of the incident in question, Plaintiff suffered disability and physical impairment in the past and, in reasonable probability, will sustain disability and physical impairment in the future.
32. As a result of the incident in question, Plaintiff sustained mental anguish in the past and, in reasonable probability, will sustain mental anguish in the future.
33. As a result of the incident in question, Plaintiff has sustained and will sustain physical disfigurement which will continue into the future.
34. As a result of the incident in question, Plaintiff has suffered lost earnings and earning capacity.

35. Plaintiff is entitled to recover from Defendant compensatory damages in such amounts allowed by law, and as determined by the fact finders in this case, as well as any and all such other damages or other relief available under New Mexico law as determined appropriate by the Court.

36. Furthermore, the negligent acts and/or omissions of Defendant described herein were malicious, willful, reckless, and/or wanton as those terms are defined under New Mexico law entitling Plaintiff to an award of punitive damages against Defendant in the amounts to be determined by the trier of fact.

V. PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays for a judgment against Defendants for damages sufficient to fully compensate Plaintiff for all the injuries and damages described herein, punitive damages, for pre- and post-judgment interest as allowed by law, for costs and for such other and further relief as the Court deems just and proper in law and in equity.

Respectfully submitted,

FADDUOL, CLUFF, HARDY & CONAWAY, P.C.

/s/ Meghan Mitchell
Meghan Mitchell
1115 Broadway
Lubbock, Texas 79401
(806)763-9377
mmitchell@fchclaw.com

ATTORNEYS FOR PLAINTIFF

FILED 1st JUDICIAL DISTRICT COURT

Rio Arriba County

3/8/2022 12:21 PM

KATHLEEN VIGIL CLERK OF THE COURT

Johnny Enriquez-Lujan

**STATE OF NEW MEXICO
COUNTY OF RIO ARRIBA
FIRST JUDICIAL DISTRICT COURT**

LEON VAN WINKLE,

Plaintiff,

No. D-117-CV-2022-00070

vs.

**MARATHON PETROLEUM CORPORATION;
MARATHON PETROLEUM LOGISTICS
SERVICES LLC; MARATHON PETROLEUM
COMPANY LP,**

Defendant.

JURY DEMAND

Plaintiff, by and through his attorneys of record, Fadduol, Cluff, Hardy & Conaway, P.C. (Meghan Mitchell), respectfully demands a trial by a twelve-person jury of all issues triable of right by jury and hereby tenders the jury fee.

Respectfully submitted,

FADDUOL, CLUFF, HARDY & CONAWAY, P.C.

/s/ Meghan Mitchell

Meghan Mitchell
1115 Broadway
Lubbock, Texas 79401
(806)763-9377
mmitchell@fchclaw.com

ATTORNEYS FOR PLAINTIFF

AFFIDAVIT OF SERVICE

State of New Mexico

County of Rio Arriba

First Judicial District Court

Case Number: D-117-CV-2022-00070

FILED 1st JUDICIAL DISTRICT COURT

Plaintiff:
LEON VAN WINKLE

vs.

Defendant:

MARATHON PETROLEUM CORPORATION; MARATHON PETROLEUM LOGISTICS SERVICES LLC; MARATHON PETROLEUM COMPANY LP

For:

Ryan Crumley
WesTex Legal
4414 82nd Street, Ste. 212-322
Lubbock, TX 79424Received these papers on the 14th day of March, 2022 at 11:43 am to be served on **Marathon Petroleum Company LP c/o CT Corporation System, 206 S Coronado Ave, Espanola, NM 87532**.

I, David Martin, being duly sworn, depose and say that on the **15th day of March, 2022** at **9:26 am**, I: served an **AUTHORIZED** entity by delivering a true copy of the **Summons, Original Complaint For Personal Injuries, Plaintiff's First Discovery Instrument To Marathon Petroleum Company LP** to: **Judy Romero** at the address of: **206 S Coronado Ave, Espanola, NM 87532**, who stated they are authorized to accept service for **Marathon Petroleum Company LP**, and informed said person of the contents therein, in compliance with state statutes.

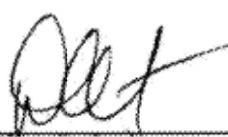
Additional Information pertaining to this Service:

3/15/2022 9:26 am: David Martin served Marathon Petroleum Company LP c/o CT Corporation System at 206 S Coronado Ave, Espanola, NM 87532 by hand delivering the documents to Judy Romero, Authorized Agent.

Description of Person Served: Age: ~65, Sex: F, Race/Skin Color: Hispanic, Height: 5'6", Weight: 140, Hair: Dark Brown, Glasses: Y

I certify that I am over the age of 18 and have no interest in the above action.

Subscribed and Sworn to before me on the 15th day of March, 2022 by the affiant who is personally known to me.


David Martin
 Process Server

 Our Job Serial Number: MPP-2022001511
 Ref: 6803882


AFFIDAVIT OF SERVICE

State of New Mexico

County of Rio Arriba

First Judicial District Court

Case Number: D-117-CV-2022-00070

FILED 1st JUDICIAL DISTRICT COURT

Rio Arriba County

3/16/2022 2:30 PM

KATHLEEN VIGIL CLERK OF THE COURT

Liliana M Villalobos

Plaintiff:

LEON VAN WINKLE

vs.

Defendant:

MARATHON PETROLEUM CORPORATION; MARATHON PETROLEUM
LOGISTICS SERVICES LLC; MARATHON PETROLEUM COMPANY LP

For:

Ryan Crumley
 WesTex Legal
 4414 82nd Street, Ste. 212-322
 Lubbock, TX 79424

Received these papers on the 14th day of March, 2022 at 11:39 am to be served on **Marathon Petroleum Corporation c/o CT Corporation System, 206 S Coronado Ave, Espanola, NM 87532**.

I, David Martin, being duly sworn, depose and say that on the **15th day of March, 2022 at 9:24 am**, I:

served an **AUTHORIZED** entity by delivering a true copy of the **Summons, Original Complaint For Personal Injuries, Plaintiff's First Discovery Instrument To Marathon Petroleum Corporation** to: **Judy Romero** at the address of: **206 S Coronado Ave, Espanola, NM 87532**, who stated they are authorized to accept service for **Marathon Petroleum Corporation**, and informed said person of the contents therein, in compliance with state statutes.

Additional Information pertaining to this Service:

3/15/2022 9:24 am David Martin served Marathon Petroleum Corporation c/o CT Corporation System at 206 S Coronado Ave in Espanola, NM 87532 by hand delivering the documents to Judy Romero, Authorized Agent.

Description of Person Served: Age: ~65, Sex: F, Race/Skin Color: Hispanic, Height: 5'6", Weight: 140, Hair: Dark Brown, Glasses: Y

I certify that I am over the age of 18 and have no interest in the above action.

Subscribed and Sworn to before me on the 15th day of March, 2022 by the affiant who is personally known to me.


 David Martin
 Process Server

Our Job Serial Number: MPP-2022001510
 Ref: 6803881



AFFIDAVIT OF SERVICE

State of New Mexico

County of Rio Arriba

First Judicial District Court

Case Number: D-117-CV-2022-00070

Plaintiff:

LEON VAN WINKLE

vs.

Defendant:

MARATHON PETROLEUM CORPORATION; MARATHON PETROLEUM LOGISTICS SERVICES LLC; MARATHON PETROLEUM COMPANY LP

For:

Ryan Crumley
WesTex Legal
4414 82nd Street, Ste. 212-322
Lubbock, TX 79424

FILED 1st JUDICIAL DISTRICT COURT

Rio Arriba County

3/16/2022 2:30 PM

KATHLEEN VIGIL CLERK OF THE COURT

Liliana M Villalobos

Received these papers on the 14th day of March, 2022 at 11:45 am to be served on **Marathon Petroleum Logistics Services LLC c/o CT Corporation System, 206 S Coronado Ave, Espanola, NM 87532**.

I, David Martin, being duly sworn, depose and say that on the 15th day of March, 2022 at 9:27 am, I:

served an **AUTHORIZED** entity by delivering a true copy of the **Summons, Original Complaint For Personal Injuries, Plaintiff's First Discovery Instrument To Marathon Petroleum Logistics Services LLC** to: Judy Romero at the address of: **206 S Coronado Ave, Espanola, NM 87532**, who stated they are authorized to accept service for **Marathon Petroleum Logistics Services LLC**, and informed said person of the contents therein, in compliance with state statutes.

Additional Information pertaining to this Service:

3/15/2022 9:27 am David Martin served Marathon Petroleum Logistics Services LLC c/o CT Corporation System at 206 S Coronado Ave in Espanola, NM 87532 by hand delivering the documents to Judy Romero, authorized agent.

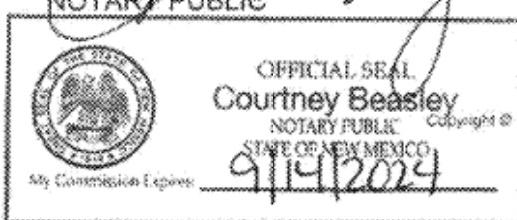
Description of Person Served: Age: ~65, Sex: F, Race/Skin Color: Hispanic, Height: 5'6", Weight: 140, Hair: Dark Brown, Glasses: Y

I certify that I am over the age of 18 and have no interest in the above action.

Subscribed and Sworn to before me on the 15th day of March, 2022 by the affiant who is personally known to me.


David Martin
Process Server

Our Job Serial Number: MPP-2022001512
Ref: 6803884



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